

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Theo Kaufman	Team: Squad #06	CCRB Case #: 202202489	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 02/18/2022 12:58 PM	Location of Incident: § 87(2)(b)	18 Mo. SOL 8/18/2023	Precinct: 18		
Date/Time CV Reported Thu, 03/24/2022 3:30 PM	CV Reported At: CCRB	How CV Reported: Mail	Date/Time Received at CCRB Thu, 03/24/2022 3:30 PM		
<b>Complainant/Victim</b>	<b>Type</b>	<b>Home Address</b>			
<b>Subject Officer(s)</b>	<b>Shield</b>	<b>TaxID</b>	<b>Command</b>		
1. PO Steven Cortes	29232	945618	MTN PCT		
2. SGT Eric Hatkewitz	03528	936740	MTN PCT		
<b>Officer(s)</b>	<b>Allegation</b>	<b>Investigator Recommendation</b>			
A . SGT Eric Hatkewitz	Abuse: Sergeant Eric Hatkewitz threatened to remove § 87(2)(b) to the hospital.				
B . PO Steven Cortes	Abuse: Police Officer Steven Cortes threatened to remove § 87(2)(b) to the hospital.				

### Case Summary

On March 24, 2022, § 87(2)(b) filed this complaint with the CCRB via mail.

On February 18, 2022, at approximately 12:58pm, Sgt. Eric Hatkewitz, PO Steven Cortes and additional officers of the 18<sup>th</sup> Precinct responded to an EDP job at § 87(2)(b) in Manhattan, regarding a 911 call placed by the building's assistant property manager. § 87(2)(b) opened the door to the responding officers and spoke with Sgt. Hatkewitz. EMS spoke with § 87(2)(b) and decided to take her to the hospital for a medical evaluation. Sgt. Hatkewitz then threatened to take § 87(2)(b) to the hospital (**Allegation A: Abuse of Authority:** § 87(2)(g) § 87(2)(b) refused to go to the hospital. Sgt. Hatkewitz and EMS discussed § 87(2)(b) mental state, and the facts surrounding the 911 call and decided against taking § 87(2)(b) to the hospital. PO Cortes told § 87(2)(b) that if officers received another call to her location, she would be taken to the hospital (**Allegation B: Abuse of Authority:** § 87(2)(g)). Officers left the scene without further incident.

No arrests or summonses resulted from this incident.

BWC was obtained and is located in IAs 33-38.

### Findings and Recommendations

**Allegation (A) Abuse of Authority: Sergeant Eric Hatkewitz threatened to remove § 87(2)(b) to the hospital.**

EVENT Chronology § 87(2)(b) notes that the 911 call stated the tenant in § 87(2)(b) at § 87(2)(b) has psychological issues and was banging on the door and floor. A supplemental entry names § 87(2)(b) as the subject. A further entry clarifies that the caller, the property manager for the building, stated that § 87(2)(b) had a hammer and was banging and hammering the walls and floor. EVENT notes this case as an EDP ambulance case (**BR 01**).

Sgt. Hatkewitz's BWC shows that he arrived on scene with other officers and knocked on the door to § 87(2)(b). § 87(2)(b) does not open the door or respond to officers. At timestamp, 08:55, Sgt. Hatkewitz speaks to § 87(2)(b) neighbor in § 87(2)(b) who explains that she heard really hard banging that must have been with a hammer or another object. However, she did not open her door or look outside so she did not see anything. At timestamp 11:30, Sgt. Hatkewitz again approaches the door to § 87(2)(b). At 13:44, § 87(2)(b) opens the door. Sgt. Hatkewitz speaks with § 87(2)(b) and explains that someone called 911 because they heard banging on the door with a hammer, possibly. § 87(2)(b) says that she heard the banging down the hallway, and it sounded like someone was banging with a hammer and a rubber stopper. § 87(2)(b) goes on to state that the management is constantly harassing and bullying her. At 16:50, Sgt. Hatkewitz walks away from § 87(2)(b) and speaks to the neighbor again, who confirms that she did not see § 87(2)(b) specifically banging but just heard the noise throughout the hall. At 19:10, Sgt. Hatkewitz walks back to § 87(2)(b) at her door and tells her to talk to EMS. Sgt. Hatkewitz says that if EMS says that § 87(2)(b) is fine, then the officers will leave. At 21:19, An EMT asks § 87(2)(b) a few questions, and then says that § 87(2)(b) should go to the hospital to make sure that she is okay. Sgt. Hatkewitz then tells § 87(2)(b) to step out and that she has to come with them. § 87(2)(b) refuses. Sgt. Hatkewitz walks away for a few minutes and explains to EMS that the neighbor said she heard banging, and that she and the building management just assumed it was § 87(2)(b). Sgt. Hatkewitz adds that he wanted to tell the EMT this earlier but did not get the chance. Sgt. Hatkewitz says that he thinks § 87(2)(b) is upset. The EMT says that he does not know if § 87(2)(b) has a psych history and is not comfortable leaving without approval from his lieutenant. Sgt. Hatkewitz says that he is comfortable making the decision to leave without taking § 87(2)(b) to the hospital since it was just assumed that § 87(2)(b) was

the one making the noise (**BR 02**).

§ 87(2)(b) testified that on February 18, 2022, at approximately 1:37pm, she was in her apartment at § 87(2)(b) in Manhattan when she heard banging and shouting in the hallway. § 87(2)(b) looked outside the door and did not see anything. A couple of minutes later, § 87(2)(b) heard NYPD knocking on her door. From the peephole she saw several officers but decided not to answer the door. Eventually, § 87(2)(b) heard an officer say “this is going to get ugly” prompting her to open the door. Sgt. Hatkewitz told § 87(2)(b) that the officers had received a call stating that she was violent and banging on tenant’s walls and doors with a hammer. § 87(2)(b) told the officers that she was not banging on the walls or doors, and she had not even left her apartment yet that day, adding that she had heard the noise as well. PO Cortes said that the caller saw § 87(2)(b) banging on the walls and doors. § 87(2)(b) asked where the evidence of this was. PO Cortes approached § 87(2)(b) and asked if she had a mental illness or needed mental assistance. PO Cortes told § 87(2)(b) that EMS was going to check her out, ask a few questions and make sure that she did not need mental assistance. An EMT stepped forwards and asked questions to determine her cognizance. Sgt. Hatkewitz then said that they were going to take her in for assistance and asked her to grab her keys. § 87(2)(b) refused. Sgt. Hatkewitz stepped away and said that they were going to get their lieutenant to speak with her. (**BR 04**).

EMS was not interviewed as their initial determination to take § 87(2)(b) to the hospital, and subsequent decision not to take her to the hospital were both captured on BWC.

PO Cortes testified that on February 18, 2022, at approximately 1:27pm, He received a call for a crime in progress at § 87(2)(b). The occupant of § 87(2)(b) was noted as a suspect. § 87(2)(b) was allegedly banging the on the walls in the hallway with a hammer. PO Cortes and other officers arrived on scene and did not hear any banging by the time that they arrived. They approached § 87(2)(b) door. § 87(2)(b) did not answer the door, although officers heard commotion inside the apartment. Eventually § 87(2)(b) spoke with officers through the door but refused to come out of the apartment. PO Cortes asked § 87(2)(b) to come out of the apartment and said that he wanted to see her and have a brief conversation to make sure that she was okay. After approximately 15 minutes, § 87(2)(b) opened the door and came out of the apartment. § 87(2)(b) was fully covered in clothes, wearing gloves, and appeared to be sweating profusely. She was jumpy, talking very quickly and very loudly. Her apartment was pitch black. PO Cortes thought she might be having some type of episode. PO Cortes told § 87(2)(b) that EMS was going to come and check her out and that they would proceed based on EMS’ recommendations. Eventually EMS spoke with § 87(2)(b) and it was determined that she did not need to go to the hospital (**BR 05**).

An officer may involuntarily remove a civilian to a hospital when the officer reasonably believes that a person who is mentally ill or emotionally disturbed must be taken into protective custody because the person is conducting themselves in a manner likely to result in serious injury to themselves or others. Patrol Guide Procedure 221-13 (**BR 06**).

BWC shows that § 87(2)(b) spoke with EMS who determined that she needed to go to the hospital for an evaluation and Sgt. Hatkewitz threatened to remove § 87(2)(b) to the hospital, based on that determination. EVENT chronology shows that § 87(2)(b) was designated as an EDP and suspect of possible disturbance with a weapon. BWC shows that a neighbor confirmed to Sgt. Hatkewitz that she did not see § 87(2)(b) banging on the walls in the hallway, and it was just assumed that it was § 87(2)(b). When § 87(2)(b) refused to go to the hospital, Sgt. Hatkewitz then spoke with the EMT and explained that he learned § 87(2)(b) was named as a suspect based on an assumption by § 87(2)(b). Sgt. Hatkewitz and the EMT then decided that

§ 87(2)(b) did not need to be removed to the hospital and left the scene.

§ 87(2)(g)

**Allegation (B) Abuse of Authority: Police Officer Steven Cortes threatened to remove § 87(2)(b) to the hospital.**

PO Cortes' BWC shows that after § 87(2)(b) initially refuses to go to the hospital, Sgt. Hatkewitz walks away from § 87(2)(b) front door with EMS. In this time, PO Cortes continues to speak with § 87(2)(b) at her front door. At timestamp 16:00, PO Cortes asks § 87(2)(b) if she is going to calm down once the officers leave and tells her that if the police have to respond again to her location that day, § 87(2)(b) is going to come with them. PO Cortes repeats this statement. At 17:35, Sgt. Hatkewitz returns and tells § 87(2)(b) that they are going to leave. At 17:58, PO Cortes tells § 87(2)(b) "Just keep in mind, if we have to return here today, you're gonna end up coming with us" (BR 03).

§ 87(2)(b) testified that after she spoke with EMS and Sgt. Hatkewitz, PO Cortes told § 87(2)(b) that the officers were going to take her for an evaluation just to make sure that everything was OK. § 87(2)(b) again refused. PO Cortes then told § 87(2)(b) that they were going to "let this go" but told § 87(2)(b) "Just to let you know, if we get another call that someone saw you doing something else, we are going to come back here and you're going to go with us, and we are going to take you down for an evaluation." PO Cortes repeated this statement two or three times. PO Cortes told § 87(2)(b) to get back into her apartment and calm down but told her that if they got another call they were going to come back and take her down for an evaluation. The officers then left the hallway and § 87(2)(b) went back inside her apartment (BR 04).

EMS was not interviewed as their initial determination to take § 87(2)(b) to the hospital, and subsequent decision not to take her to the hospital were both captured on BWC.

Upon reviewing his BWC, PO Cortes acknowledged that he told § 87(2)(b) "If we have to return here today, you're going to end up coming with us." By "coming with us," PO Cortes meant that § 87(2)(b) would be going to the hospital with EMS. However, PO Cortes noted that regardless, he would not have made that determination and it would have been up to EMS. He did not recall why he made this statement to § 87(2)(b). PO Cortes noted that he was concerned about returning to the location because he felt that § 87(2)(b) conduct was a concern (BR 05).

An officer may involuntarily remove a civilian to a hospital when the officer reasonably believes that a person who is mentally ill or emotionally disturbed must be taken into protective custody because the person is conducting themselves in a manner likely to result in serious injury to themselves or others. Patrol Guide Procedure 221-13 (BR 06).

BWC confirms that after § 87(2)(b) spoke with Sgt. Hatkewitz and EMS, PO Cortes told § 87(2)(b) that officers would leave the location and allow her to remain but told her that "If we have to return here today, you're going to end up coming with us." Although during his testimony, PO Cortes acknowledged that § 87(2)(b) would have to be re-evaluated by EMS if officers were called to the scene again, and he would not have made that determination himself, he nonetheless told § 87(2)(b) that she would be taken to the hospital if officers were called back to the scene. Patrol Guide Procedure 221-13 states that officers must determine that someone is conducting themselves in a manner likely to result in serious injury to themselves or others before

determining to remove them to a hospital. § 87(2)(g)

§ 87(2)(g)

#### Civilian and Officer CCRB Histories

- § 87(2)(b)
- PO Cortes has been a member of service for 14 years and has been a subject in one additional CCRB complaint and one allegation, which is still under investigation. § 87(2)(g)
- Sgt. Hatkewitz has been a member of service for 17 years and has been a subject in two additional CCRB complaints and four allegations, of which one was substantiated:
  - 202103316 involved substantiated allegations of Abuse of Authority against Sgt. Hatkewitz. The Board recommended formalized training and the NYPD has not yet imposed discipline.

§ 87(2)(g)

#### Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- § 87(2)(b) filed a Notice of Claim with the City of New York claiming personal injury in emotional distress, pain and suffering, extreme anguish, trauma, anxiety, insomnia, panic attacks, hardship, and PTSD and seeking restitution in an unspecified amount as redress (**BR 08**). As of August 10, 2022, the NYC comptroller's office has no records of a 50-H hearing (**BR 10**).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 6

Investigator:	<u>Theo Kaufman</u>	<u>Investigator Theo Kaufman</u>	<u>08/11/2022</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Jessica Peña</u>	<u>IM Jessica Peña</u>	<u>8/11/2022</u>
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date